

REMARKS

The present remarks are in response to the Final Office Action dated September 30, 2008, in which the Office Action issued a rejection of claims 1-35. In this response, the Applicant has made Amendments to independent claims 1 and 12. Additionally, the Applicant has cancelled claims 8, 16, and 20-35. Furthermore, the Applicant has added new claims 36 and 37. In view of the Amendments and Remarks submitted herewith, the Applicant respectfully requests that the pending claims be placed in a state of allowance. No new matter has been added.

A. Claim Amendments

In the Final Office Action, the Examiner finally rejected claims 1-35. If an Applicant files a Request for Continued Examination (RCE) in a timely manner as set forth in 37 CFR 1.17(e) with a submission, the Office will withdraw the finality of any Office Action to which a reply is outstanding and the submission will be entered and considered. See 37 CFR 1.114(d).

Although the Applicant disagrees with the Examiner's grounds for rejection, the Applicant has modified the independent claims 1 and 12 to expedite the prosecution of this patent application. The Applicant has made a variety of amendments to claims including a game session that includes a chargeable credit game condition, in which a first player selection is received for charging at least one credit for each game event. Support for this claim amendment is provided *inter alia* in Figure 4 (block 206) described on Page 17 (lines 11-19) of the filed patent application.

Additionally, the Applicant has amended the dynamic payable to be modified after each game event that charges according to the chargeable credit game condition. Support for this claim limitation is provided *inter alia* Figure 4 (block 215 and block 221) described on Page 19 (lines 7 – 13) and Page 20 (line 16).

Furthermore, the Applicant has amended the dynamic payable to include a plurality of paytables wherein each payable is associated with a corresponding game event. This limitation is described *inter alia* in Figure 5 (block 248) described on Page 24 (line 21) through Page 25 (line 3) of the filed patent application.

Further still, the Applicant has included the amendment for repeatedly displaying each payable for the corresponding game event. Support for this claim limitation is provided *inter alia* in Figure 4 (block 215 and block 221) described on Page 19 (lines 7 – 13) and Page 20 (line 16).

Further yet, the Applicant has amended the independent claims to include repeatedly modifying the dynamic payable during the game session for each game event so that each payable is modified according to a graduated weighting function that weighs probabilities more favorably as more game events are played during the game session. This claim amendment is described *inter alia* in Figure 5 (block 242) on Page 23 (lines 6 – 17) of the filed patent application.

Finally, the Applicant has added two new dependent claims wherein the dynamic payable is modified after each game event according to an equation:

$$\text{PAY(I)} = \text{ROI} * \text{ABET} * \text{WGT(I)} * \text{AL(IHIT)}/\text{PR(I)}$$

where,

ROI is an overall payback percentage;

ABET is an average bet;

WGT(I) is a graduated weighting function that weighs probabilities more favorably for game events that occur at the end of the said game session;

AL(IHIT) is a pay allocation weighting function; and

PR(I) is a probability for the next game event.

This limitation is described in *inter alia* in Figure 5 (block 247) on Page 24 (lines 17 – 21) of the filed patent application.

Applicant respectfully submits that substantive claim amendments have been made in this RCE. In view of the amendments and changes to the claims, the Applicant requests that the Examiner withdraw the finality of the Office Action and place all claims in a condition of allowance.

B. 35 USC 103(a) Claim Rejection

The Examiner rejected claims 1-35 under 35 USC 103(a) as being unpatentable over the same named inventor Luciano (US 6,368,214) hereinafter referred to as "Luciano" in view of Odom (US 6,581,935) referred to as "Odom." As

described above, the Applicant has amended the claims to overcome the Examiner's rejection.

With respect to amended claims 1 and 12, the Applicant respectfully submits that the cited references fail to teach, suggest or motivate repeatedly modifying the dynamic payable during the game session for each game event so that each payable is modified according to a graduated weighting function that weighs probabilities more favorably as more game events are played during the game session.

In the Examiner's action, the Examiner states that performing a plurality of chargeable actions is taught at 9:49-55 of Luciano. Although the process of increasing and decreasing a bet is described, the Applicant respectfully submits that a chargeable credit game condition that is provided when initiating a game session wherein the dynamic payable is modified after charging the chargeable credit game condition, and repeatedly displaying each payable that corresponds to the associated game event as claimed by Applicant is not taught by either Luciano or Odom, or the combination thereof. Thus, Applicant submits that the *combination* of repeatedly modifying the dynamic payable according to a graduated weighting function, repeatedly displaying each payable for each game event, and charging according to a fixed chargeable credit game condition *is not taught or suggested by the cited references.*

Further still, the new claims 36 and 37 include limitations where the dynamic payable is modified after each game event according to an equation:

$$\text{PAY}(I) = \text{ROI} * \text{ABET} * \text{WGT}(I) * \text{AL}(\text{IHIT})/\text{PR}(I)$$

where, ROI is an overall payback percentage; ABET is an average bet; WGT(I) is a graduated weighting function that weighs probabilities more favorably for game events that occur at the end of the said game session; AL(IHIT) is a pay allocation weighting function; and PR(I) is a probability for the next game event. Simply put, Applicant respectfully submits that these claim elements are not taught or suggested by either Luciano, Odom, or the combination thereof.

C. Conclusion

In view of all of the foregoing, claims 1-7, 9-15, 17-19, and 36-37 overcome the Office Action rejection herein and are now patentably distinct and in condition for allowance, which action is respectfully requested.

Respectfully Submitted;

A handwritten signature in black ink, appearing to read "Michael A. Kerr", written in a cursive style.

Dated: January 30, 2008

Michael A. Kerr
Reg. No. 42,722

Michael A. Kerr
KERR IP GROUP, LLC
P.O. Box 22028
Carson City, NV 89721

Ph. 775-841-3388
Fx. 775-841-3389

mick@kipg.com